Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
00002-0440 (formerly 037145-1201)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number	Filed
	10/816,694	April 1, 2004
on December 20, 2010	First Named Inventor	
Signature /Sanjeev K. Dhand/	Ronkainen	
Typed or printed name Sanjeev K. Dhand	Art Unit	Examiner
	2182	IL WOO PARK

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
      Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 51,182

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

/Sanjeev K. Dhand/
Signature

Sanjeev K. Dhand
Typed or printed name

858-621-0672
Telephone number

December 20, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ronkainen et al.

Title: SYSTEM, METHOD, COMPUTER PROGRAM PRODUCT, AND BUSINESS METHOD FOR DEVICE GROUP MANAGEMENT USING VIRTUAL DEVICE DOMAIN

Appl. No.:   10/816,694

Filing Date: 4/1/2004

Examiner: PARK, Ilwoo

Art Unit: 2182

Confirmation Number: 9712

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

Claims 1-22 are pending in the application and were rejected by the Examiner.

Claims 1-17 and 19-22 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2006/0031768 to Shah *et al.* (hereinafter "Shah"). Applicant respectfully disagrees with the Examiner's interpretations of Shah as it relates to the pending claims and, therefore, traverses the rejections of the pending claims for at least the reasons that follow.

In rejecting claim 1 of the present application, the Examiner has relied on Shah, paragraphs [0227], [0248] and [0463], to assert that this reference allegedly describes "synchronizing a particular virtual device with one or more other virtual devices, wherein the synchronizing comprises automatically updating the one or more other virtual devices with data associated with the particular virtual device," which is recited in pending claim 1. See Office Action, dated March 16, 2010, page 3, lines 7-14. Applicant respectfully disagrees, as there are no teachings or even suggestion in paragraphs [0227], [0248] and [0463] of Shah to anticipate the above-note features of pending claim 1.

As to paragraph [0227] of Shah, this paragraph is describing the operation that is conducted in step 246 of Figure 9. The process that is described in Figure 9 illustrates two additional steps that are carried out prior to step 246 (which allegedly describes the above noted features of pending claim 1). In particular, in steps 242 and 244, Shah describes that a user associates a program icon with a device icon and the user specifies whether a remote invocation of this program is desired. According to Shah, only after the manual operations of steps 242 and 244 have been carried out, the program is converted to the appropriate type for the device in step 246. Such a series of operations cannot be reasonably construed as "automatically updating the one or more other virtual devices with data associated with the particular virtual device" since <u>such a program conversion that is described in step 246 will never happen unless the user has associated the program icon with the device and has specified whether a remote invocation is needed</u>. Therefore, paragraph [0227] of Shah fails to teach or suggest at least the feature of pending claim 1 that recites "the synchronizing comprises <u>automatically updating</u> the one or more other virtual devices."

As to paragraph [0248] of Shah, this paragraph describes:

> "[0248] .... <u>the user may simply drag and drop the program icon on to the device icon in step 242 and enter other information in step 244</u>. Steps 246, 248, 250, 252, 254 and 256 of FIG. 8 (and the steps of FIG. 9) may be performed invisibly to the user. Thus, the user may never know that the program corresponding to the program icon <u>that the user dragged and dropped on to the device icon</u> was initially incompatible with the device, the conversion of the program to the appropriate format in step 246 having been performed invisibly to the user." (Emphasis added).

The description in paragraph [0248] of Shah similarly <u>requires the user to drag and drop the program icon (step 242) and enter other information (step 244) before any other operations can occur.</u> More specifically, such manual operations are pre-requisites of other operations (e.g., program conversion, loading the program, etc.) that are subsequently carried out in steps 246, 248 and others. See also, Shah, Figures 9 and 11. Therefore, the description in paragraph [0248] of Shah cannot be reasonably construed as teaching or even suggesting "automatically updating the one or more other virtual devices with data associated with the particular virtual device," which is recited in claim 1.

As to paragraph [0463] of Shah, this paragraph relates to providing an alternate display (i.e., in the form of a tree diagram as opposed to a regular configuration diagram) on a client device. Shah, in paragraphs [0451] to [0462], with reference to Figure 37, describes the steps that are involved in displaying a configuration diagram. In paragraph [0463], Shah describes that instead of, or in addition to, the standard configuration diagram "a second or alternate view of the client system may be generated and displayed." According to Shah's description in paragraph [0463], the second or alternate diagram is a tree diagram that displays a hierarchical view of the devices and programs. Shah further describes that any changes made to one diagram (e.g., a change in the standard configuration diagram) will automatically be reflected in the second diagram (e.g., the tree diagram). Therefore, the description in paragraph [0463] of Shah relates to updating one depiction of configuration information, which already resides on the client device, with any changes that occur in a different depiction of the same configuration information, which also resides on that client device. In contrast, pending claim 1 recites synchronizing a <u>particular virtual device</u> with one or more <u>other virtual devices</u>, where such synchronization comprises automatically updating the one or more <u>other virtual devices</u> with data associated with <u>the particular virtual device</u>. Since paragraph [0463] of Shah merely describes updating two different versions of a visual diagram on the same client device, this paragraph cannot be reasonably construed as teaching or even suggesting the above-noted features of pending claim 1.

In the "Response to Arguments" portion of the pending Office Action, the Examiner argues that "Shah teaches the one or more other virtual devices [e.g., the device icon] is automatically updated with automatically converted program data without a user intervention

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for the conversion instead of deploying a program upon a user intervention …." Office
Action dated August 20, 2010, page 2. In support of this position, the Examiner cites the
disclosure in a particular portion of paragraph [0248] of Shah. However, when read in
context of the entirety of paragraph [0248] of Shah, it is clear that the Examiner's reasoning
is flawed.

In particular, the specific portion of paragraph [0248] cited by the Examiner occurs
after certain manual operations are carried out by the user. As noted above, in accordance
with the disclosure of Shah, the user must "drag and drop the program icon on to the device
icon in step 242 and enter other information in step 244 …." Shah, paragraph [0248]. It is
only after this point that Shah discloses that the "user may never know …."

Thus, contrary to the Examiner's assertions, Shah fails to teach or suggest the features
recited in the pending claims.

Since Shah fails to teach or suggest at least the above-noted features of pending claim
1, a *prima facie* case of anticipation has not been established. Accordingly, claim 1 is
patentable. Claims 6, 9 and 20 each recite a similar feature as the one discussed in
connection with claim 1. Accordingly, claims 6, 9 and 20 are patentable for similar reasons
as claim 1.

As to claims 2-5, 7-8, 10-17, 19 and 21-22, these claims depend, either directly or
indirectly, from one of allowable claims 1, 6, 9, or 20 and are, therefore, patentable for at
least that reason, as well as for other patentable features when these claims are considered as
a whole.

The Examiner has further rejected claim 18 under 35 U.S.C. § 103(a) for being
allegedly unpatentable over Shah in view of what was well known in the art. Applicant
respectfully disagrees with the Examiner, as claim 18 depends directly from allowable claim
9 and is, therefore, patentable for at least that reason, as well as for additional patentable
features when this claim is considered as a whole.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date _____December 20, 2010_____   By _____/Sanjeev K. Dhand/_____

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